

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CHERYL M. NELSON,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:11CV00904 AGF
)	
THE SPECIAL ADMINISTRATIVE)	
BOARD OF THE ST. LOUIS PUBLIC)	
SCHOOLS, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

Plaintiff Cheryl Nelson brings this action against Defendants Kelvin Adams, Rick Sullivan, and the Special Administrative Board of the St. Louis Public Schools, charging race discrimination, retaliation, and various constitutional and statutory violations arising out of the termination of her employment with the Special Administrative Board of the St. Louis Public Schools. Presently before the Court is Defendants' motion to extend the deadline for Alternative Dispute Resolution (ADR) referral in this matter.

Upon review of the file, the Court notes the following. Plaintiff has filed two amended complaints since the Court held its August 26, 2011 Rule 16 conference in this case and issued its case management order. On December 2, 2011, the Court granted Plaintiff leave to file a second amended complaint, ordered Defendants to file their response to that complaint not later than December 15, 2011, and scheduled oral argument on the pending motion to dismiss for January 25, 2012. Shortly thereafter, on

December 5, 2011, the Court issued its ADR referral order setting a February 13, 2012, deadline for completion of the referral.

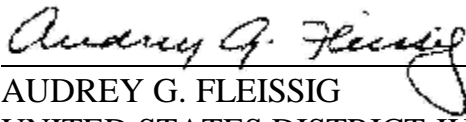
Defendants seek an extension of that deadline, asserting that due to the filing of the amended complaints and the pending motion to dismiss, the issues in the case are not sufficiently defined to permit a fruitful mediation. In addition, Defendants note that the deadline for filing Rule 26(a)(1) disclosures was extended by consent of the parties to February 1, 2012, and that as a result of the extension, the parties will have little time to review the disclosures prior to the close of the ADR referral.

Plaintiff opposes the motion, arguing that the filing of the second amended complaint should not necessitate delay because Defendants have been aware of the factual bases for her claims for some time, and the parties have previously engaged in settlement negotiations which provided Defendants with additional information regarding the factual and legal bases of her claims. In addition, Plaintiff points out that oral argument on the motion to dismiss will conclude almost three weeks prior to the present ADR deadline, allowing the parties sufficient time to complete the ADR referral.

The Court notes that although the Plaintiff's second amended complaint did not add parties or substantially alter her claims, it did set forth new legal theories. In addition, although the general rule is that an ADR referral will not be delayed until after the resolution of motions to dismiss, in this case the Court believes that a brief extension of the ADR referral deadline is appropriate. The parties are advised, however, that the pendency of a motion to dismiss does not excuse the parties from conducting discovery and proceeding in a manner consistent with the deadlines in the Case Management Order.

Accordingly,

IT IS HEREBY ORDERED that Defendants' motion to extend the deadline for ADR referral shall be **GRANTED, in part.** (Doc. No. 53.) The parties shall have until **February 29, 2012** to notify the Clerk of Court of the agreed neutral and the date, time and location of the ADR conference, and shall have until **April 13, 2012**, to conclude the mediation conference.



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 19th day of January, 2012.